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Chairperson: Ms. Rodriguez-Pineda (Vice-Chairperson) . . . . . (Guatemala)

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In the absence of Mr. Al Bayati (Iraq), Ms. Rodríguez-Pineda (Guatemala), Vice-Chairperson, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 129: Administration of justice at the United Nations (*continued*) (A/C.6/63/L.7 and L.8)

Oral report by the Chairperson of the Working Group on Administration of Justice at the United Nations

1. **Mr. Sivagurunathan** (Malaysia), Chairperson of the Working Group on Administration of Justice at the United Nations, recalled that at the 1st meeting of the Committee, on 6 October 2008, it had been decided to establish the Working Group with a view to finalizing the draft statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal as a matter of priority, bearing in mind General Assembly resolution 62/228 on the subject. The Working Group, which was also tasked with continuing discussion of the other legal aspects of justice at the United Nations, had been open to all States Members of the United Nations, as well as to members of its specialized agencies and of the International Atomic Energy Agency.

2. He further recalled that the agenda item had been allocated to the Fifth and Sixth Committees pursuant to resolution 62/228, paragraph 68 of which invited the Sixth Committee to "consider the legal aspects of the reports to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters". The resolution had stipulated that the new system was to be established by 1 January 2009.

3. The Working Group had had before it the report of the Ad Hoc Committee on the Administration of Justice at the United Nations (A/63/55 and Add.1); the report of the Secretary-General on administration of justice at the United Nations (A/63/314); the report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2006 and 2007 and statistics on the disposition of cases and work of the Panel of Counsel (A/63/211); the report of the Secretary-General on activities of the Ombudsman (A/63/283); and a note by the Secretary-General entitled "Administration of justice: further information requested by the General Assembly" (A/62/748 and Corr.1). The Working Group had met four times — on 7, 17, 21 and 22 October 2008 — and had been briefed by a representative of the Panel of Counsel on 21 October 2008.

4. Informal consultations on the draft statutes of the two Tribunals had been conducted by Mr. Thomas Fitschen (Germany). Agreement had been reached on most of the provisions of the draft statute of the Dispute Tribunal (A/C.6/63/L.7) and the Appeals Tribunal (A/C.6/63/L.8). In addition, the Working Group had agreed on two oral amendments to the text of the draft statute of the Dispute Tribunal as proposed by the Secretariat. In the first amendment, the first paragraph of footnote 11 would be retained while the following paragraphs would be replaced by new text. Thus, the second paragraph of the footnote would read: "It is important to strike a balance between these legal considerations, on the one hand, and, on the other hand, incentives and disincentives for filing and prolonging frivolous suits, the likelihood of informal resolution of disputes, and the efficiency and even-handedness of the process, in addition to the financial implications for the new system. In striking this balance, consideration should also be given to the role of the Office of Staff Legal Assistance, in particular, the scope of assistance offered."

5. The third paragraph of the footnote would read: "During the consultations there was support for the text as proposed by the Secretariat. It was also proposed to amend subparagraph (b) of the footnote (to introduce a cap of three years net base salary on compensation) and to delete the provisions concerning interests and costs." The fourth paragraph would read: "The Secretariat's proposal on compensation builds upon the current system in which a cap exists on compensation (2 years net base salary) but that in exceptional circumstances that cap can be raised. This is provided in article 10 of the current UNAT tribunal. Regarding interest and costs, it was noted that these would be new elements under the new system of administration of justice, but, under certain circumstances, are awarded by international administrative tribunals."

6. In the second amendment, article 10 (9) of the draft statute of the Dispute Tribunal would include a new sentence, following the model of article 10 (1) of the draft statute of the Appeals Tribunal, which would read: "Cases referred to a panel of three judges shall be decided by a majority vote."

7. The Working Group recommended that the Chairperson of the Sixth Committee should send the President of the General Assembly a letter, a copy of which had been circulated in the meeting room, transmitting the texts of the draft statutes and requesting that they should be brought to the attention of the Fifth Committee and circulated as a document of the General Assembly. As agreed by the Working Group on 22 October 2008, the draft letter referred to the draft statutes as adopted by the Sixth Committee with bracketed unagreed text. It also referred to the possible options identified by the Sixth Committee (in appendix II to the draft statute of the Dispute Tribunal) with respect to the persons who could file applications with the Tribunal, as well as to the Committee's observations, contained in footnotes or appendices to the draft statutes, on a number of matters that should be decided by the General Assembly once the Fifth Committee had made its recommendation. Lastly, the draft letter included the Sixth Committee's recommendation as to the language to be included in the General Assembly resolution adopting the text of the draft statutes.

8. The Working Group also recommended that the Committee should adopt a draft decision stating: "The General Assembly decides that the Ad Hoc Committee on the Administration of Justice at the United Nations established pursuant to General Assembly decision 62/519 of 6 December 2007 will continue the work on the outstanding legal aspects of the item, taking into account the results of the deliberations of the Fifth and Sixth Committees on the item, previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-third session prior to the meeting of the Ad Hoc Committee. The Ad Hoc Committee shall meet from [...] to [...] 2009, and shall report on its work to the Assembly at its sixty-fourth session. The General Assembly also decides to include in the provisional agenda of its sixty-fourth session the item entitled 'Administration of justice at the United Nations'."

9. **The Chairperson** said that if there was no objection, she would take it that the Committee wished to adopt the recommended texts of the draft statutes of the Dispute Tribunal and Appeals Tribunal with bracketed unagreed text, contained in documents A/C.6/63/L.7 and A/C.6/63/L.8, as orally amended.

10. *It was so decided.*

11. **The Chairperson** said that if there was no objection, she would take it that the Committee wished to authorize her to sign and send the draft letter to the President of the General Assembly.

12. *It was so decided.*

13. **The Chairperson** said that the Committee would resume consideration of the draft decision introduced by the Chairman of the Working Group at a future meeting.

The meeting rose at 3.25 p.m.